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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,270	07/18/2003	Robert Goetze	02037IP	4217
7590	07/28/2004		EXAMINER KAVANAUGH, JOHN T	
Charles E. Lykes, Jr. Esq. Suite 101 501 S. Ft. Harrison Ave. Clearwater, FL 33756-5317			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	10/622,270	GOETZE, ROBERT	
	Examiner	Art Unit	
	Ted Kavanaugh	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because Reference number “131” is not found in the drawings. It would appear reference numeral “135” and “137” should be reversed in the figures. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Figure 8 is not adequately described in the specification. Applicant didn't provide any detailed description of figure 9.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 2,4-6,8,10,11,12,14,16,17,18,20,22,23,24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the phrase “said sole is enlarged to expand beyond the side in front of the slipper” is unclear and indefinite. It is not clear if applicant is claiming the sole extends beyond the side, the front or both.

In claim 4-6, “the back”, “the top”, “the rear opening” and “the shell” lack proper antecedent basis and therefore the scope of the claim is not clear.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2650159 (Vataire).

Vataire teaches a slipper as claimed including a sole (3) of sufficient thickness, a protective assembly comprising a compartment defined by an outer and inner layer (see the layers containing element 6), said compartment housing a protective material (6). The outer layer is made out of a fabric that inherently is suitable for decoration or decorative display.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2996814 (Baker) in view of Vataire '159.

Baker teaches a slipper having a sole of sufficient thickness and extending beyond the sides of the upper substantially as claimed except for a protective assembly having a protective material. Vataire teaches a slipper having a protective assembly having a protective member (6) located in a compartment defined by an inner layer and outer layer (see figure 1). It would have

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been obvious to provide the slipper of Baker, with a protective member located in a compartment defined by an inner layer and an outer layer, as taught by Vataire, to protect the toes of the wearer.

8. Claims 4-6 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-3 above, and further in view of US 1712420 (Carlson).

Carlson teaches a slipper with a gripping member (10) protruding inwardly at the top of the rear opening of the upper. It would have been obvious to provide the slipper as taught above with a gripping member, as taught by Carlson to prevent sliding of the heel portion of the shoe.

9. Claims 7-12 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-6 respectively above, and further in view of US 4598484 (Ma) and/or US 4265032 (Levine).

Ma teaches providing footwear with a plurality of apertures 15,16 to provide proper air circulation, see col. 2, lines 3+. Levine teaches providing a slipper with a plurality of slits that function as ventilation holes, see col. 5, lines 14-16. Moreover, Levine also teaches providing air vents 52,54. It would have been obvious to provide the slipper as taught above with ventilation holes as taught by Ma and/or Levine, to provide proper ventilation to the wearer.

10. Claims 13-24 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-12 respectively above, and further in view of US 4109661 (Fukuoka).

Fukuoka teaches a sole with an arch-supporting portion (33b). It would have been obvious to provide the sole of the slipper as taught above with an arch supporting portion, as taught by Fukuoka, to stimulate the vital points of the foot.

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11. Claims 25 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 above, and further in view of US 3005272 (Shelare et al).

Shelare teaches providing the sole with air pockets to provide a lighter weight shoe, see col. 1, lines 19-20. It would have been obvious to provide the sole as taught above with air pockets, as taught by Shelare, to provide a lighter weight shoe.

12. Claims 26 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 above, and further in view of US 2381280 (Handlesman).

Handlesman teaches a shoe wherein the protective assembly has ventilation holes (5). It would have been obvious to provide the protective assembly of the shoe as taught above with ventilation holes, as taught by Handlesman, to provide proper ventilation to the shoe.

Conclusion

13. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including:

--“The reply must present arguments pointing out the *specific* distinctions believed to render the claims, including any newly presented claims, patentable over any applied references.”

--“A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.”

-Moreover, “The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06” MPEP 714.02. The “disclosure” includes the claims, the specification and the drawings.

14. Information about your application can be obtained at the PTO Home Page at www.uspto.gov. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Telephone inquiries regarding other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners" M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.


In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (703) 872-9306 (FORMAL FAXES ONLY). Applicants who authorize charges to a PTO deposit account may also use it for filing papers that require a fee. Please identify Examiner Ted Kavanaugh of Art Unit 3728 at the top of your cover sheet.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Ted Kavanaugh whose telephone number is (703) 308-1244. The examiner can normally be reached from 6AM - 4PM.

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Ted Kavanaugh
Primary Examiner
Art Unit 3728

TK
July 27, 2004